



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of: Rao, Dodda, et al.

Group Art Unit: 1626

Serial No.: 10/524,478

Examiner: Sun Jae Y Loewe

Filed: 02/11/2005

For: Novel Crystalline Form of Linezolid

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THIRD PARTY SUBMISSIONS UNDER 37 CFR 1.99

Dear Sir:

This Third Party Submission Under 37 CFR § 1.99 is being made to make of record the attached documents, constituting a third party submission filed with the European Patent Office with respect to European Patent Application No. 03769887.5 (EP-A 1673370), a family member to currently pending application 10/524,478.

The Submitting Party notes that 37 CFR 1.99 states that "a submission under 37 CFR § 1.99 must be filed within two months from the date of publication of the application (37 CFR § 1.215(a)), or prior to the mailing of a notice of allowance (37 CFR § 1.311), whichever is earlier." In this case, Application No. 10/524,478 has been published on June 15, 2006, and a Notice of Allowance has not yet been mailed. Thus, under the rules, the deadline for this submission would have expired on August 15, 2006. However, in this case, the attached documents were made of record in the corresponding EPO application on October 2, 2007, well after the two months period set forth in § 1.99 had expired. Thus, it is submitted that the attached submission could not have been made within the time set forth in § 1.99. Accordingly, the Submitting Party requests that this submission be considered timely.

This Submission is accompanied by payment of the \$180 fee set forth in 37 CFR § 1.17(p) for a third party submission under § 1.99, the \$130 fee set forth in 37 CFR 1.17(i) for processing a belated submission under § 1.99.

Service of this Third Party Submission has been made upon the Attorney of Record, Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd., 11th Floor, Seven Penn Center, 1635 Market Street, Philadelphia, PA 19103-2212, USA by Courier.

Date: *December 11, 2008* By: *Andreas Schöllhorn*

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